

REVISION OF CANOL PROJECTS

Exchange of notes at Ottawa June 7, 1944, revising agreement of June 27 and 29, 1942, as supplemented

Entered into force June 7, 1944

Supplemented by agreement of February 26, 1945¹

Superseded by agreement of March 31, 1960²

58 Stat. 1384; Executive Agreement Series 416

The American Ambassador to the Secretary of State for External Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

Ottawa, Canada, June 7, 1944

No. 156

SIR:

I have the honor to refer to previous correspondence and specifically, to the exchanges of notes of June 27 and 29, 1942,³ August 14 and 15, 1942,⁴ and December 28, 1942–January 13, 1943,⁵ as well as to recent conversations which have taken place with officials of your Government, all with regard to the Canol project.

2. My Government, desiring to arrange for an early withdrawal from activities in the Northwest Territories having to do with discovery and development of oil fields and at the same time to provide for an adequate supply of oil to meet present and future military needs, proposes the following, namely, that it: a) terminate its contract with the Nobel Drilling Company for exploration work in the Northwest Territories; and, b) modify its contract with Imperial Oil Limited for the discovery and development of oil fields and the production of oil in accordance with the terms of the letter of intent dated April 11, 1944, a copy of which is enclosed.

3. The Government of the United States asks the Canadian Government to agree to the proposals set forth above and further to agree: a) that the provision of the August 14–15, 1942, exchange of notes as to the disposition of the Skagway – Whitehorse pipeline will apply also to the gasoline distribution lines to Watson Lake and Fairbanks; b) that after the United States disposes of its works, installations and facilities of the Canol project as pro-

¹ TIAS 1695, *post*, p. 394.

² 11 UST 2486; TIAS 4631.

³ EAS 386, *ante*, p. 276.

⁴ EAS 387, *ante*, p. 280.

⁵ EAS 388, *ante*, p. 303.

vided in existing agreements, the owners and/or lessees thereof will be granted adequate enjoyment of the sites, rights of way, and riparian rights required for satisfactory utilization and that the Canadian Government or its assigns will permit the aforesaid works, installations, and facilities to be used, on equitable terms, for the transportation and refining of crude petroleum purchased by the United States in the Northwest Territories and for the distribution of such petroleum and the products thereof both within and without the boundaries of Canada; c) that no export or other tax, or embargo affecting the United States Government will be placed upon the export of oil purchased by the United States in accordance with the terms of this note.

4. It is understood that nothing in clause b) in paragraph 3 above precludes the Government of Canada from charging a fair and nondiscriminatory rental for the use of the lands referred to in any case in which works and facilities are acquired by private interests. It is also understood that, as stated in the note from the United States Minister on June 27, 1942, "the pipeline and refinery when operated for commercial purposes will be subject to such regulations and conditions as the Canadian Government may consider it necessary to impose in order to safeguard the public interest." Finally, it is understood that clause c) in paragraph 3 above does not limit the right of the Canadian Government after the war to charge a fair and nondiscriminatory royalty on oil produced for and purchased by the United States.

Accept, Sir, the renewed assurances of my highest consideration.

RAY ATHERTON

Enclosure.

The Right Honorable

THE SECRETARY OF STATE
FOR EXTERNAL AFFAIRS,
Ottawa.

(COPY)

SPEAC

11 APRIL 1944

LETTER OF INTENT IN CONNECTION WITH CONTRACT NO. W-412-ENG-52, AS AMENDED BY SUPPLEMENTAL AGREEMENTS NOS. 1, 2 AND 3

IMPERIAL OIL LIMITED
56 Church Street
Toronto (1), Canada

GENTLEMEN:

You are advised that the Government will negotiate with you a supplemental agreement to your contract, described above, with the following provisions:

1. That Supplemental Agreement No. 1 to above-mentioned contract shall be acknowledged as being terminated and cancelled.

2. That said Contract No. W-412-eng-52 and Supplemental Agreements Nos. 2 and 3 (all as amended pursuant hereto) shall hereafter and until terminated remain in full force and effect as to the proven area at and adjacent to Norman Wells, but shall not apply to or have force and effect as to any area outside said proven area; the said proven area at and adjacent to Norman Wells shall be defined as that area colored in red on the plan hereto annexed as Exhibit I^o and copies of said plan shall be attached as Appendix A to proposed supplemental agreement.

3. That the equipment and supplies (including compressors, battery stations, etc.) intended for development and/or exploratory work now en route to Norman Wells shall be delivered at Norman Wells by the Government and installed by the contractor and such further equipment and supplies shall be furnished and delivered at Norman Wells and such further work done and completed at the proven area (all under the terms and during the life of said Contract No. W-412-eng-52 and its supplemental agreements as amended pursuant hereto) as may be necessary to render and keep the proven area capable of efficiently producing and delivering at least 4,000 barrels of crude petroleum per day to the Government and the contractor shall be obligated, during the same period, to keep the proven area capable of delivering at least 4,000 barrels per day. No action under this clause 3 shall prevent or impair the supplying of the local requirements for petroleum or petroleum products except with the consent of the Government of Canada.

4. That in lieu of the prices for crude oil mentioned in Sections 8.a. and 10 of Article I of the original contract, the Government, after May 1, 1944, and during the remaining life of said Contract No. W-412-eng-52 and its supplemental agreements (all as amended pursuant hereto), will pay the contractor for crude petroleum delivered from the field tank batteries or delivered to the refinery storage for processing from wells drilled under said last named contract, 20 Cents Canadian currency per barrel. The Government will also continue to reimburse the contractor for all costs as provided in said Contract No. W-412-eng-52 and its supplemental agreements but the contractor will pay any royalty owed to private third parties.

5. The contractor is embarking on an extensive exploratory program in the Northwest Territories and as conducive to efficiency, expedition and economy of operation for both parties, provision shall be made for such exchanges, consolidations, joint usage and divisions of expenses relating to production, general supervision, general office, utilization of employees, establishments, tankage, facilities, and services and furnishing or sale of materials and supplies on hand as may be agreed upon by the Contracting Office and the Contractor's Project Manager as being of mutual benefit.

^o Not printed.

6. That on the termination of said contract No. W-412-eng-52 (as amended pursuant hereto), the contractor will give to the Government of the United States the continuing right to purchase for its own use but not for resale, at the wellhead or in the contractor's field tanks, crude petroleum from the said proven area to an amount which shall not exceed one-half of the recoverable reserves remaining in the proven area at the said contract termination last above mentioned or 30,000,000 barrels, whichever shall be the smaller, and in addition thereto the said Government shall have the continuing right to purchase for its own use but not for resale 10% of the recoverable reserves of crude petroleum found in each field hereafter successively discovered by drilling and developed by the contractor in the Northwest Territories until there shall be a combined total of 60,000,000 barrels of crude petroleum from the proven area and the fields so discovered and developed subject to the aforesaid continuing right to purchase of the Government. The Government shall pay for the said crude oil the cost thereof to the contractor, including all direct and indirect expenses incurred in connection with finding, development and production thereof, with proper provisions for depreciation and depletion, but no depreciation or depletion shall be charged in relation to the buildings, installations and equipment covered by clause 7 hereof or in relation to the monies expended by the Government through the contractor on exploratory work and, in addition to the said cost, the Government shall pay to the contractor 20 Cents Canadian currency per barrel. The above right to purchase of the Government shall be subject to the following conditions:

(1) To the prior and preferred supplying of all local requirements for crude petroleum and petroleum products currently.

(2) The above right to purchase shall, from and after May 1, 1954, be exercised currently and the Government of the United States shall accordingly take delivery during each month of 20% of the respective amounts of crude oil which the contractor produces for export during said month from the proven area and from each of the other areas in which the Government has its right to purchase crude oil until a total of 60,000,000 barrels of crude oil shall have been received by the said Government directly or by delivery to the contractor as hereinafter in this sub-clause (2) provided or partly by each of the said methods; in case the Government does not take all or a part of the said 20% as above set forth, the Government shall be deemed to have delivered the amount of said 20% which it does not take delivery of during the month in question to the contractor for the latter's own use and the contractor shall pay to the Government all of the excess by which the average price received by the contractor for crude oil exported from the field in question during said month exceeds the price payable by the Government for said crude oil at the wellhead, namely, 20 Cents Canadian currency per barrel plus cost as above defined.

(3) In case of war emergency, the contractor will use all reasonable endeavours to produce and deliver to the Government the crude oil which it has the right to purchase hereunder in the quantities and at the times desired by the Government. Except in case of war emergency the contractor shall not be asked to produce any of its fields inefficiently or to the injury of said fields.

(4) Any costs in excess of those which the contractor would normally incur in the ordinary course of its business, if incurred at the request, and for the benefit of the Government, shall be for account of the Government and paid by it. The Government shall take delivery of the said crude oil currently as it purchases the same and the contractor shall not be obligated to furnish storage for the same.

7. That at the termination of said Contract No. W-412-eng-52 and its supplemental agreements (all as amended pursuant hereto), the Government shall transfer to and vest in the contractor all the wells, buildings, installations, tanks, battery stations, drilling and other equipment (including spare parts) and materials and supplies including all rights relating thereto which the Government then has in the Norman Area or en route thereto for development and/or exploratory work, including such marine and road transportation and construction equipment as is required to service the same, and any other buildings, equipment or supplies including all rights relating thereto which, not being required by the Government may be of use to the contractor in his proposed exploratory and development program. The Government agrees not to remove permanently from the Norman Area any of the above items without the consent of the contractor and to now deliver to the contractor all of such items as are not required for the contractor's operations on the proven area and the contractor shall have the right to use the same from May 1, 1944, in his proposed exploratory and development program, paying therefor a rental equivalent to 5 Cents Canadian currency per barrel for each barrel of oil purchased by the Government under Article 4 hereof. All such property as can now be itemized and listed shall be now itemized and listed and attached as Appendix B to the proposed supplemental agreement. Further items can be added to said Appendix B from time to time by the Contracting Officer and the Project Manager and a final itemizing and listing of the property shall be made at the termination of the Contract No. W-412-eng-52 by the Contracting Officer and the Project Manager and attached to the proposed supplemental agreement as Appendix C. For the above property to be so transferred to and vested in the contractor, the contractor shall pay the Government the sum of \$3,000,000 Canadian currency, said sum to be payable only out of the proceeds of oil delivered or deemed to be delivered to the Government under clause 6 hereof at the rate of 5 Cents Canadian currency per each barrel of oil so delivered or deemed to be delivered.

8. The original Contract No. W-412-eng-52 and the supplemental agreements Nos. 2 and 3 (all as amended pursuant hereto) shall terminate

on the termination of hostilities in the present War or at the option of the Government at the expiry of such period not exceeding one year after the said termination of hostilities as the Government may desire, provided that in the latter case the Government shall give the contractor three months' prior written notice of such termination.

Except as may be modified by a supplemental agreement contemplated by this Letter of Intent, the terms and conditions of your Contract No. W-412-eng-52 and supplemental agreements Nos. 2 and 3 shall remain in full force and effect.

Kindly indicate on three copies hereof your acceptance of this Letter of Intent and return all executed copies to the Contracting Officer.

Very truly yours,

THE UNITED STATES OF AMERICA

By _____
O. P. EASTERWOOD, Jr.
Major, Corps of Engineers,
Contracting Officer.

ACCEPTED _____ 1944
IMPERIAL OIL LIMITED
By _____

(Address)

The Secretary of State for External Affairs to the American Ambassador

DEPARTMENT OF
EXTERNAL AFFAIRS
CANADA

No. 58

OTTAWA, June 7, 1944

SIR,

In acknowledging receipt of your Note No. 156 of June 7, 1944, I have the honour to inform you that the Government of Canada, having given consideration to the desire of the Government of the United States to withdraw from activities in the Northwest Territories having to do with the discovery and development of oil fields, agrees to the proposals and understandings set forth in your Note.

I have the honour to be Sir,

Your obedient servant,

W. L. MACKENZIE KING
Secretary of State
for External Affairs

THE UNITED STATES AMBASSADOR,
Embassy of the United States of America,
Ottawa, Canada.